



Governor's 2012 Task Force on the study of Kentucky's Alcoholic Beverage Control Laws

Local Option Committee Meeting – September 11, 2012

Committee Chair – Tony Dehner, Commissioner,
Kentucky Department of Alcoholic Beverage Control

Minutes

A meeting of the 2012 Governor's Task Force **Local Option Committee** was held September 11, 2012 at 11:00 a.m. at the offices of the Department for Local Government, 1024 Capital Center Dr., Ste. 340, Frankfort, Kentucky.

Opening Remarks: Committee Chairman Tony Dehner called the meeting to order and gave a reminder that this committee will be addressing problems with KRS Chapter 242. Additional information packets were distributed to committee members. Chairman Dehner announced a modification in the agenda, in that a presentation from the Secretary of State's Board of Elections will be moved to the next meeting agenda.

Roll Call:

Committee Members Present: –Tony Dehner, Chairman; Stephanie Stumbo, ABC Malt Beverage Administrator; Danny Reed, ABC Distilled Spirits Administrator; Bob Vance, Secretary Public Protection; Larry Bond, Chief of Staff – Office of the Governor; Gay Dwyer, KRA; Jitter Allen, Large Brewers Assoc.; Jerry "Peanuts" Gains, KACo; Tom Bozarth, KLC and Mayor City of Midway; Senator Tom Buford; Senator Jimmy Higdon; Scott Jones, (representing Representative Clark); Roger Leasor, KBAR; and Eric Gregory, KDA.

Committee Members Absent: – Representative Clark (but was represented by Scott Jones)

Others Participants Present: Steve Humphress, Kentucky ABC General Counsel; John Clay, retired ABC Commissioner; Tyler Madison, DOA; Mary Sue Helm SOS-BOE; Becky Gorman, TAHC; Stacy Kula, Attorney-Fayette Co.; Pam Jenkins, WIA; Neil Willinghurst, KRF; Tim McGurk, Kroger; David Smith, ABC Staff Attorney; Jason Trudeau, KBEW; John Harris, KBWA; Gene McLean, KBWA; Bert May, KLC; and Michael Scott, SOS-BOE.



Approval of Minutes: Chairman Dehner called for any edits to the minutes of the August 29, 2012, meeting. There being no edits, he called for a motion to approve. The motion carried and the minutes were approved by the committee members.

Discussion of KRS 242: Chairman Dehner reviewed some problems that Kentucky ABC recognizes with KRS Chapter 242:

- KRS Chapter 242 does not identify what territories can have an election;
- KRS Chapter 242 does not define “territory”;
 - Chairman Dehner would like this committee to define “territory”
- KRS Chapter 242 does not include all types of local option elections;
 - (Chairman Dehner recommends KRS 230.350(2) and KRS 243.155(3) be moved into Chapter 242);
- KRS Chapter 242 includes license requirements and regulatory rules;
 - want to look at removing those
- KRS Chapter 242 includes city ordinance laws;
 - with simplification of our rules, perhaps city ordinances would be improved.
 - this committee will work with that issue along with the licensing committee
- KRS Chapter 242 does not identify if a precinct must wait 3 years to have its own local option election after a city or county election;
- KRS Chapter 242 has a conflict between wait period for precinct local option elections in a 3rd class city;
 - will only require a technical change in the statute
- KRS 242.125 is hard to understand;
- KRS Chapter 242 does not address the various types of wetness created by special limited wet local option elections;
 - use of terms of “wet,” “dry,” and “prohibition in effect,” are not consistent with various types of wetness created by special limited wet local option elections
- KRS Chapter 242 special limited local option elections need to be clarified;
- KRS Chapter 242 does not address the wording for a local option election petition;
- KRS Chapter 242 encourages persons signing petitions to provide social security numbers;
- KRS Chapter 242 permits a local option election for a type of wetness that has never existed since created 70 years ago;
 - remove through housekeeping
- KRS Chapter 242 addresses wet/dry status of a portion of a precinct annexed or merged into a city precinct but does not address wet/dry status of a portion of a precinct annexed or merged in a county precinct;
 - precinct lines changes periodically
 - split precincts are a problem
 - grandfathering
- Election day sales – local option election in a precinct or city
 - no alcohol sales in the entire county



The following items were brought up for discussion as problems with KRS Chapter 242, but it was decided by a consensus of the committee members to take no further action on them:

- KRS Chapter 242 Does not currently contain the “county unit rule”:
 - courts recognize it as existing
 - currently causes confusion and controversy
 - allows a precinct to vote dry if a county is wet but does not allow a precinct to vote wet if the county votes dry
 - courts recognize the county unit rule does not alternatively allow a precinct to return to wet if a county or city votes dry
- KRS Chapter 242 does not address how ballots should be worded for precinct only elections;
- KRS Chapter 242 only permits 2nd class cities to have a precinct only election to become limited wet;
 - Ashland Rule
- KRS Chapter 242 requires 4th class cities to have a 2nd election to become fully wet;
- KRS Chapter 242 provides that counties without a 4th class city can never become fully wet;
- KRS Chapter 242 allows 5th and 6th class cities to have some forms of local option elections but not others;
- Primary or General Election day sales
 - two bills have been pre-filed addressing this issue

Pre-Filed Bills: Committee members were given copies of two pre-filed bills that address election day sales to review. BR 40 and BR 84 will be discussed at the next meeting.

Member Input: The following additional ideas and concerns regarding KRS Chapter 242 were identified by committee members and participating attendees for consideration and discussion (*note – some of the following ideas and concerns were duplicates of those addressed by Chairman Dehner and were ultimately eliminated*):

- instead of putting social security numbers on petitions, people are encouraged to only put their birth year.
 - County Clerks must verify that there are a certain percentage of registered voters have signed the petition
 - The state Board of Elections’ database may not be set up to capture only the birth year, and signatures are often hard to read
 - only require the last four digits of the social security number on petitions
 - The BOE will report more on the issue of petitions at the next meeting
- the rising costs of special elections are becoming a real issue for counties
 - having special elections take place at the court house only to reduce costs
 - tie special elections to primary or general election days



- this may be a problem on years when there are no primary or general elections
- Nickel tax elections – school boards have to pay for these elections
 - If that election is held at a time other than a primary or general election then the school board is responsible for the costs
- the issue of counties without a 4th class city – controversial
 - should this issue be addressed by this committee?
- As a resident of a 4th class city, Mayor Bozarth does not feel that a second election is necessary.
 - legislation addressing 4th class cities election rules may need to be submitted in a separate piece of legislation.
- Around 1980 KRS 243.230 was amended and prior to that, 4th class cities were allowed to vote full wet without a 2nd election – liquor drink licenses were not excluded
 - KRS 242.127 and 242.129 were added in the amendment bill which required the 2nd election
 - only 7 cities that have actually had the 2nd election – most just do the economic hardship ordinance
 - the need for a 2nd election is old legislation and could be hard to reverse
 - what was the basis for this legislation?
- 5th and 6th class city election rules are confusing and can be controversial
 - should this issue be addressed by this committee
- County unit rule needs to be added to the statute

Committee Assignments/Next Meeting Items: Members were asked to review items discussed at today's meeting and be prepared to come to a consensus on issues that this committee be moving forward. Tom Bozarth will discuss the impact of this issue with KLC, as will Peanut Gaines with KACo. (*Note: the 4th class city issue was eliminated in later discussions during this meeting*). The Secretary of State's Board of Elections will present their thoughts and concerns about special elections. The BOE will also discuss the statute addressing precinct election officers.

Next Meeting Date(s): A recommendation was made to change the standing time of this committee meeting in the future from 10:30 a.m. to 9:00 a.m. There were no objections.

The next meeting of the Local Option Committee will be Tuesday, October 9, 2012 **AT THE NEW TIME** of 9:00 a.m. – 10:30 a.m. at the offices of the Department for Local Government, 1024 Capital Center Dr., Ste. 340, Frankfort, Kentucky.

Adjournment: The Local Option Committee meeting was adjourned at 12:15 p.m.